REMARKS

Upon receipt of this response, the Examiner is respectfully requested to contact the undersigned representative of the Applicant to arrange a telephone interview concerning the inventive merits of this application.

The Applicant thanks the Examiner for indicating that claims 14, 21, 22, 24, 26-28, and 31-33 are allowed.

The Applicant thanks the Examiner for the telephonic interview held August 31, 2010 concerning the presently claimed invention. The Applicant and the Examiner discussed the wording of claims 29 and 30, and the applicability of Popp et al. '597 (U.S. Patent No. 6,375,597) against claim 34. The Examiner concluded that Popp et al. '597 did not anticipate claim 34, but indicated that he would conduct a further search to see if he could locate other art read on claim 34. In this reply, the Applicant has presented additional remarks, further elucidating the current wording of claims 29 and 30.

Claims 24 and 26-33 are objected to for informalities stated in the official action. Appropriate correction has been made.

Claims 29 and 30 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons noted in the official action for being non-enabling. Claims 29 and 30 are also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, by the above claim amendments, and the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, first and second paragraph, rejections. The entered claim amendments are directed at reciting enabled subject matter and at overcoming the raised indefiniteness rejections and are not directed at distinguishing the present invention from the art of record in this case.

In further explanation of the present lucidity of claims 29 and 30, it is offered that the current language would be clear to a person skilled in the arts. If a clutch is held engaged with a calculated pressure level being a little bit higher than necessary to transmit a given engine torque in a first step, followed by "freezing" said calculated pressure level in a second step, followed by an engine torque increase caused by an additional fueling-command of the

transmission control unit in a third step, but without raising said calculated pressure level in the third step, the result will be a clutch slip. This also works during a shift operation, if the engine torque increase caused by a fueling-command of the transmission control unit given to the engine control unit is not part of the clutch pressure calculation of the transmission control unit.

Claim 34 is then rejected, under 35 U.S.C. § 102(b), as being anticipated by Popp et al. `597 (U.S. Patent No. 6,375,597). The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Before discussing the applied art, the Applicant notes that the presently claimed invention, specifically as claimed in claim 34, relates to a method of increasing the readiness of a crossover gear shift in an automatic transmission. The method comprises the steps of: issuing an overlapping switching command to a transmission controller; transmitting a command from a transmission controller to a motor controller for increasing motor fueling directly after transmission of the overlapping switching command; setting a rotational speed and a motor torque as a function of a desired increase in spontaneity; fueling the motor depending on either the set rotational speed or the set motor torque to be utilized by the automatic transmission; fueling the motor up to a maximum attainable full-load characteristic curve; and at least one of forcing open a switching element being disengaged and increasing a rotational speed gradient (turbine rotational speed) by the fueling of the motor.

Turning now to the applied art, Popp et al. `597 describes a method for controlling the shifting time of a transmission from input variables of the vehicle and the driver (col. 1, 35-38). The Examiner maintains that Popp et al. '597 anticipates the Applicants' claim 34, stating that Popp et al. '597 teaches each and every limitation contained in said claim. The Applicant respectfully disagrees.

The examiner first states that Popp et al. '597, and Figure 5B specifically, teaches both of the following steps in their entirety: (a) *"transmitting a command from a transmission controller to a motor controller for increasing motor fueling directly after transmission of the overlapping switching command,"* and (b) *"fueling the motor up to a maximum attainable full-load characteristic curve."* Next, the Examiner states that Popp et al. '597, while pointing to nothing, neither figure nor text, teaches *"fueling the motor depending on either the set rotational*

speed or the set motor torque to be utilized by the automatic transmission," yet this time the Examiner points to nothing, neither figure nor text that actually teaches such element. The Applicant vehemently disagrees with each of these assertions, and will discuss each in turn.

First, respectfully, the Examiner is contorting Popp et al. '597's clearly stated meaning of Figure 5B. Figure 5B depicts the curve of a transmission input rotational speed for three separate situations, *depending on clutch pressure*. The Examiner though, asserts that these separate rotational speed curves are actually representative of fueling functions. It is, respectfully, unclear how the Examiner reaches this conclusion when the terms "fuel," "fueling," or even "fueled" do not ever appear in Popp et al. '597, not to mention the claimed limitations of "*transmitting a command from a transmission controller to a motor controller for increasing motor fueling directly after transmission of the overlapping switching command*," or "*fueling the motor up to a maximum attainable full-load characteristic curve*."

How the Examiner reached this conclusion is made further turbid by the fact that Popp et al. '597 describes, explicitly, that these different curves are a function of different clutch pressure levels, not fueling levels. "The **pressure level** at point H of the first clutch K1 is lower than that at Point F. **As a consequence of this**, the transmission input rotational speed nT begins at time t3 to rise more quickly than the firs case example" (col. 5, lines 31-34). Further, "[t]he **pressure level** K is higher than that of point F. **Consequently**, the transmission input rotational speed nT begins to rise more slowly" (col. 5, lines 47-50). There is no need for conjecture and speculation regarding how the transmission input rotational speed nT changes; Popp et al. '597 puts it in black and white - this Figure has nothing to do with changes in fueling.

Respectfully, what *is* crystal clear, is that Popp et al. '597 does not teach changing motor fueling to change transmission input rotational speed - but rather, as it states in text and figures repeatedly and definitively, Popp et al. '597 teaches changing clutch pressure level to change transmission input rotational speed. Therefore, as the cited Figure 5B of Popp et al. '597 does not in any way teach "*transmitting a command from a transmission controller to a motor controller for increasing motor fueling directly after transmission of the overlapping switching command*," or "*fueling the motor up to a maximum attainable full-load characteristic*

curve" it is respectfully submitted that the rejection in view of Popp et al. '597 should be withdrawn, and that claim 34 is in condition for allowance.

Second, the Examiner states that Popp et al. '597 teaches the necessary limitation of "*fueling the motor depending on either the set rotational speed or the set motor torque to be utilized by the automatic transmission*," but fails to indicate where, when, or how the cited reference does so. Respectfully, such an empty averment is clearly insufficient to support a rejection based on anticipation. The Applicant respectfully maintains that the reason the Examiner fails to point to anything in Popp et al. '597 that teaches this required step is simply because nothing in Popp et al. '597 does. As mentioned above, Popp et al. '597 does not deal with changing the fueling of a motor, does not even mention the word "fuel," and most assuredly does not teach "fueling the motor depending on either the set rotational speed or the set motor torque to be utilized by the automatic transmission." As Popp et al. '597 does not in any way teach such limitation, it is respectfully submitted that the rejection should be withdrawn, and that claim 34 is in condition for allowance.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, dependent claim 35 of this application recites the features of "*..of fueling the motor not effecting clutch pressure...*" (Emphasis added.) It is respectfully submitted that such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art of Popp et al. '597.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Popp et al. `597 reference, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be

RECEIVED
CENTRAL FAX CENTER
SEP 29 2010

withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,

Jay S. Franklin, Reg. No. 54,105
Customer No. 020210
Davis & Bujold, P.L.L.C.
112 Pleasant Street
Concord, NH 03301-2931
Telephone 603-226-7490
Facsimile 603-226-7499
E-mail: patent@davisandbujold.com